

Remarks

In the initial Office Action, Claims 1-27 were rejected under 35 U.S.C. §103(a) as unpatentable over Breen (U.S. Patent No. 6,615,188) in view of Hawkins (U.S. Patent No. 6,029,146) and further in view of Howorka (U.S. Patent No. 6,282,521).

Applicant respectfully submits that the Office Action fails to present a prima facie case of obviousness, as the cited art references, either alone or in combination, do not teach or suggest each and every claimed limitation.

In particular, the cited art references do not teach or suggest utilization of market analysis software. In general, it is contemplated that the market analysis software utilizes trade trigger criteria and market data to generate a trade decision. Such trade decision can then be used to place an actual trade order.

Applicant believes that the summary review of the claimed subject matter would be useful at this point. At the heart of Applicant's invention is the ability to utilize "market analysis software" for an automated trading. Independent method Claim 1, characterizes activities that a service provider would perform to facilitate trading activity by an investor which utilizes such "market analysis software". Independent method Claim 8 characterizes activities that would be performed or otherwise attributable to the investor himself/herself. Independent Claims 10 and 19 are directed toward systems that would be configured to perform such activities utilizing the "market analysis software". Generally, the invention pertains to facilitating an investor to make trades by allowing that investor to provide "trade trigger criteria" for use by "market analysis software" which generates a "trade decision" which is then automatically executed in the form of a placed "trade order".

The “market analysis software” utilizes “trade trigger criteria” as an input received from the user/investor. The “market analysis software” further receives market data. The “market analysis software” generates a “trade decision” using the trade trigger criteria and the market data. This is further discussed at Para. 32, which reads as follows:

“In general the market analysis software 26 allows the trader to select, set and utilize a variety trade entry and exit criteria or triggers which may be based on price, volume, or derivations thereof (referred to as technical analysis tools or indicators). Thus, such tools or indicators are based upon the various values of the market data 27. The particular combinations and/or values of such trade entry and exit criteria are referred to herein as trade trigger criteria which is received from the user 12, preferably although not required, through the user interface 22. A few examples of such trade entry and exit criteria includes, but are not limited to, volume, new highs or new lows (for period from 1 minute to 52 weeks to current lifetime of the subject financial instrument), breakouts from corrective or consolidative patterns, support and resistance levels, trendliness, moving averages, standard deviation, volatility, rate of change, relative directional movement, and various oscillators including, moving average convergence divergence, stochastics, relative strength index, on balance volume and accumulation/distribution.

Thus clearly, the “market analysis software” is an analysis tool that uses both the inputs from the investor and the market data. As stated in such passage, such input or “trade trigger criteria” may be, for example,

*volume;
new highs;
new lows;
breakouts from corrective patterns;
breakout from consolidative patterns;
support levels;
resistance levels;
trendliness;
moving averages;
standard deviation;
volatility;
rate of change;
relative directional movement;
various oscillators including, moving average convergence divergence;*

*stochastics;
relative strength index;
on balance volume;
and accumulation/distribution.*

In this regard, in order to further particularly point out and distinctly claim the present subject matter, the independent claims have been amended to emphasize the point that the trade trigger criteria is related to the market data.

Turning now to the cited art references, the Office Action initially references the Breen et al. reference. As understood, Breen et al. teach a system that includes a trading server that collected orders from a plurality of order terminals for aggregation of orders. These aggregated orders are executed as a single transaction. As further understood, Hawkins et al. teach a system for broker to broker trading that will automatically match an investor's order with an existing broker's match confirmation. Finally, it is understood that Howorka teaches a trading system that allows for anonymous trading with an individual offer being made available only to a subset of an available counter-parties.

Applicant respectfully submits that none of the cited art references teach or suggest utilization of market analysis software. In general, it is contemplated that the market analysis software utilizes trade trigger criteria and market data to generate a trade decision. Such trade decision can then be used to place an actual trade order.

Though not clearly stated in the Office Action, it appears that the Office Action has analogized the claimed "trade trigger criteria" used by the "market analysis software" to the "a trigger mechanism for determining the sufficient quantity of orders to trade (Fig 4)" citing to Breen. Breen however only teaches the concept of aggregating a certain

threshold of orders placed by different sources. Once the threshold quantity is reach such “trigger” is satisfied. Such aggregation “trigger” is not analogous to the claim trade trigger criteria. As amended, it has been clarified that the claims require that the trade trigger criteria be related to the market data (e.g., volume; new highs; new lows; breakouts from corrective patterns; etc.). The threshold quantity for reaching the aggregation “trigger” is not related to any market data but rather the number or quantity of orders.

In addition, the Office Action states that “*Hawkins further teaches price limits (Fig 10/426) and time limits (Fig 10/422) and a stop price (Fig 10/448) and a price limit qualifier (Fig 10/387)(Fig 11) as triggers received the trade trigger criteria from the user interface.*” In this regard, it appears that the Office Action has analogized “price limits,” “time limits,” “stop price,” and price limit qualifiers” to the claimed “trade trigger criteria.” Applicant submits that such items are not analogous to the claimed “trade trigger criteria” in two respects. First, such items are actually trade orders. This is what is actually implemented downstream by Applicant’s invention. Second, these items are not inputs to a “market analysis software”. As such, Hawkins et al. do not teach any usage of “market analysis software”. Rather, Hawkins et al. contemplate implementation of actual trade orders. No analysis is generated based upon “trade trigger criteria” (e.g., volume; new highs; new lows; breakouts from corrective patterns; etc.).

Finally, the Office Action states “*Howorka also teaches updating quotes of available quote (Fig 3/102) and the threshold trigger credit matrix update operation (Fig 3/108) as sell as the trigger updated status of quotes (Fig 3).*” The Office Action fails to discuss or in any way relate this passage to elements in the claims. Irrespective,

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Applicant respectfully submits that Howorka does not teach or suggest utilization of market analysis software. As such, Howorka does not teach or suggest any trade trigger criteria that is used by any market analysis software along with market data to generate a trade decision. Such trade decision being used to place an actual trade order.

For the foregoing reasons, Applicant respectfully requests reconsideration of the rejections under 35 U.S.C. §103(a). On the basis of the foregoing, Applicant therefore submits that all the stated grounds of rejection have been overcome, and therefore all of the pending claims, namely Claims 1-27, are in condition for allowance.

Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicant's representative at the telephone number listed below.


Should any additional fees be due please charge Deposit Account No. 19-4330.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Customer No.: 007663

By:



Eric L. Tanezaki
Registration No. 40,196
75 Enterprise, Suite 250
Aliso Viejo, California 92656
(949) 855-1246
Fax: (949) 855-6371

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